



PUBLIC VERSION

Via Overnight Mail

June 23, 2006

April Mulqueen, Esquire
Assistant Director, Telecommunications Division
Massachusetts Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

**Re: Conversent's Request for Waiver of NANPA's Denial of Request for 1,000 Numbers
(One One-Thousand Block) to Meet a Specific Customer Need, D.T.E. 01-33**

Dear Ms. Mulqueen:

Conversent Communications of Massachusetts, Inc. ("Conversent") respectfully requests a waiver of the Pooling Administrator's (the "Administrator") decision to deny Conversent's request for a block of 1,000 numbers (one one-thousand block) in the Watertown rate center to meet the specific needs of a customer. Conversent takes such action pursuant to Federal Communications Commission ("FCC") rules, specifically 47 C.F.R. 52.15(g)(3)(iv).

1. Background and Nature of the Numbering Request.

An existing Conversent customer, [*****],¹ in an effort to improve customer service, is implementing direct inward dialing (DID) and DID faxing. It has requested that Conversent provide it with [***] consecutive numbers in the Watertown rate center, in the specific form [*****]. The customer's PBX currently is programmed with [*****] numbers for the extensions at the firm, and the customer desires that its DID numbers match its extensions. To reprogram the PBX would involve significant effort and expense.

Conversent currently has only one thousand-number block in the Watertown rate center (617-600-1xxx). Various numbers in the form [*****] have already been assigned to other customers. Accordingly, Conversent cannot accommodate the customer's request from its current inventory.

¹ Conversent considers the customer's name and the specific numbers involved to be proprietary and trade secret information, disclosure of which could result in competitive harm to Conversent. Competitors learning of the customer's identity and of the numbering resources situation might seek to acquire the customer's business from Conversent. Conversent therefore requests, and if necessary moves, that the Department maintain the confidentiality of the customer's name and the specific numbering resources requested.

Accordingly, on June 23, 2006, Conversent submitted electronically a “Part 1” form and the necessary Months to Exhaust and Utilization Certification Worksheet (both of which are attached to the proprietary version of this letter) to the Administrator, requesting a block in the Watertown rate center. The Administrator denied the request on the ground that Conversent’s existing thousand-block did not meet the 75 percent utilization level. *See* the Administrator’s denial, attached to the proprietary version of this letter.

2. Request for Waiver of the Administrator’s NXX Code Denial.

Conversent requests that the Department reverse the Administrator’s decision and order that a one-thousand block be assigned to Conversent in the Watertown rate center.

In setting its policy for the assignment of telephone numbers, the FCC designated the North American Numbering Plan Administrator (NANPA) and the Pooling Administrator to handle numbering resource administration. 47 C.F.R. § 52.15(a).² If the NANPA or Pooling Administrator decides to withhold numbering resources from a carrier, the state commission may overrule such decision for reasonable cause.

The NANPA shall withhold numbering resources from any U.S. carrier that fails to comply with the reporting and numbering resource application requirements established in this part. The NANPA shall not issue numbering resources to a carrier without an Operating Company Number (OCN). The NANPA must notify the carrier in writing of its decision to withhold numbering resources within ten (10) days of receiving a request for numbering resources. The carrier may challenge the NANPA’s decision to the appropriate state regulatory commission. The state commission may affirm, or may overturn, the NANPA’s decision to withhold numbering resources from the carrier based on its determination that the carrier has complied with the reporting and numbering resource application requirements herein. *The state commission also may overturn the NANPA’s decision to withhold numbering resources from the carrier based on its determination that the carrier has demonstrated a verifiable need for numbering resources and has exhausted all other available remedies.*

47 C.F.R. § 52.20(g)(4) (emphasis added).

Regarding the substance of the numbering request at issue here, the request fits squarely within a permissible category for assignment of additional numbering resources. The FCC has clarified that numbers may be assigned to satisfy a specific customer request for a contiguous block of numbers:

² 47 C.F.R. § 52.15(a) states: “Central Office Code Administration shall be performed by the NANPA, or another entity or entities, as designated by the Commission.” *See also* 47 C.F.R. § 52.20(d) (“The Pooling Administrator shall be a non-governmental entity that is impartial and not aligned with any particular telecommunications industry segment, and shall comply with the same neutrality requirements that the NANPA is subject to under this part.”)

[A] carrier should be able to get additional numbering resources when there is a verifiable need due to the carrier's inability to satisfy a specific customer request. We therefore clarify that states may also grant relief if a carrier demonstrates that it has received a customer request for numbering resources in a given rate center that it cannot meet with its current inventory. Carriers may demonstrate such a need by providing the state with documentation of the customer request and current proof of utilization in the rate center. States may not accommodate requests for specific numbers (i.e., vanity numbers), but *may grant requests for customers seeking contiguous blocks of numbers*. Any numbering resources granted for this reason may be initially activated only to serve the requesting customer for whom the application was made. If the customer request is withdrawn or declined, the requesting carrier must return the numbering resources to the NANPA or Pooling Administrator, and may not retain the numbering resources to serve other customers without first meeting our growth numbering resource requirements.

In the Matter of Numbering Resource Optimization, CC Docket Nos. 99-200 and 96-98, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, FCC 01-362, ¶ 64 (Dec. 28, 2001) (emphasis added; footnote omitted).³

All necessary elements are present to allow the Department to overrule the Administrator's denial. Conversent has received a customer request for numbering resources that it cannot meet with its current inventory. Conversent has demonstrated its need in writing and has submitted proof of utilization. Conversent made the appropriate application to the Administrator, which denied the request because Conversent's utilization of its numbers in this rate center did not satisfy the threshold.

FCC numbering policy is not intended to deny carriers the use of numbers for legitimate purposes such as this. In its December 2000 Numbering Resource Optimization Order, the FCC communicated the heart of its pro-competition policy when it stated:

[W]e continue to develop, adopt and implement a number of strategies to ensure that the numbering resources of the North American Numbering Plan (NANP) are used efficiently, and that all carriers have the numbering resources they need to compete in the rapidly expanding telecommunications marketplace.

In the Matter of Numbering Resource Optimization, et al., CC Docket Nos. 99-200 and 96-98, Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 89-200, FCC 00-429, ¶ 1 (Dec. 29, 2000) (footnote omitted).⁴

³ Available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-01-362A1.doc.

⁴ Available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-00-429A1.doc.

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Accordingly, Conversent respectfully requests that the Department grant this waiver request and direct the Administrator to assign to Conversent the one-thousand block in order to meet the customer's requirements as soon as possible.

Thank you for your assistance. Please do not hesitate to contact me (401-834-3326 direct dial or gregkennan@conversent.com) if you have any questions.

Very truly yours,



Gregory M. Kennan
Director, Regulatory Affairs and Counsel

cc: Mary L. Cottrell, Secretary
D.T.E. 01-33 Service List (Public Version)